REMARKS/ARGUMENTS

Informal Telephonic Interview

The applicant would like to thank the Examiner for the opportunity to discussed the rejection during an informal telephone interview on November 03, 2005. Rejection based on Finley was discussed and it was pointed out that the Finley device has a direction of flow that is different from the device in the current application. In Finley, water is introduced into the basin via down tube 22 from a supply 25. In the claimed device, water is directed out of the basin. The examiner has indicated that rejection based on Finley will be withdrawn in the next Office Action.

As for Examiner's question on detailed information of the spacings/measurements/configurations the holes and/or baffles to performed the intended function, the applicant would like to restate again that the sizes and configurations will be different depending on specific applications and uses of the device. The sizes, positions, and relative spacing of the baffles and/or openings can be varied to produce a desired discharge flow rate. As such, a wide variety of discharge flow rates are available by design. Some of the basic concepts and equations of hydraulic behaviors are well studied and known in the field. Part of the novelty in this application is when the applicant applied known concepts and equation of hydraulic behaviors to design a drainage system that solves a long-felt need. An experience engineer, after reading the applicant's disclosure, would have an "eureka moment," and would have known immediately how to design and built such a drainage system based on known tools in the art (e.g., hydraulic modeling on a computer). One skilled in the art would readily known, after reading the disclosure, to use hydraulic modeling on a computer and determine, among other things, hole diameter, number of holes, average flow rates at each water depth, and water holding time.

Claim Rejections § 112

Claims 2 and 12 were rejected for being indefinite. The applicant would like to thank the Examiner for the helpful suggestions provided. These claims have been amended.

35 USC 102(b)

Claims 3-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Finley et al. (U.S. Patent No. 6,313,545). The applicant respectfully disagrees and has discussed with the Examiner during a telephone call on November 03, 2005. The Examiner has agreed to withdraw rejection based on Finley.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California,* 814 F.2d 628, 631 (MPEP § 2131). As can be gleaned from the cited case law, the requirement is that each element must be either expressly or inherently described. In examining the portion of the cited reference that the examiner has referred the applicant to, there is no description of baffles that are sized or configured such that a discharge rate through the outlet remains substantially independent of the water depth. Also, the outlet as indicated by the examiner on Finley, does not direct water away from the device and out of the basin.

35 USC 103(a)

Claims 1-2, and 13 were rejected under 35 U.S.C. § 103(a) as being obvious by Finley et al. (U.S. Patent No. 6,313,545). The applicant respectfully disagrees.

The Examiner has indicated during the November 03, 2005 telephone conversation that the rejection based on Finley will be withdrawn. The outlet as disclosed in the Finley device does not direct water out of the basin. Instead, water is introduced into the device via down tube 22.

Request For Allowance

Claims 1-13 are pending in this application. The applicant requests allowance of all pending claims.

Respectfully submitted,
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